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STATE OF VERMONT
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For Immediate Release:
State's Attorney's Office Announces the Resolution of Three 'Major Crimes' Cases

On Friday, May 31st, 2019, the State's Attorney's Office filed Notices of Dismissal, without prejudice, in the following cases:

1. State of Vermont v. Veronica Lewis
2. State of Vermont v. Louis Fortier
3. State of Vermont v. Aita Gurung

In each of these cases, defense counsel notified the State of its intent to rely on an insanity defense at trial. Therefore, each of these cases presented the issue of whether Defendant was criminally responsible at the time of the alleged offenses. Lack of criminal responsibility is commonly referred to as "legal insanity." Before such a defense is considered, the State must prove each essential element of the offense charged beyond a reasonable doubt. If the State meets this burden, it is Defendant's burden to prove by a preponderance of the evidence that they were insane at the time the crime was committed and are therefore not criminally responsible. Proof by a preponderance of the evidence means that the defense is more likely true than not true. This burden of proof is less than the burden of proof beyond a reasonable doubt.

Consequently, in order to obtain a conviction after an initial showing by Defendant that they were legally insane at the time of the offense, the State must rebut the defense of insanity with admissible evidence that tends to show Defendant was sane at the time of the alleged offense. The issue is then ultimately decided by a jury. However, if the State does not have sufficient evidence to rebut such an insanity defense, the State, in accordance with our prosecutorial obligation to guarantee that the defendant is accorded

procedural justice and that guilt is decided upon the basis of sufficient evidence, has a duty not to go forward with the charges.

In all three of these cases, Defendants submitted opinions from forensic psychiatrists opining that they were insane when they committed the charged offenses. Further, the State received evidence that each of them has a history of major mental illness diagnoses and previous psychiatric hospitalizations. Our review of the evidence indicates that Defendants have substantial admissible evidence to prove to a jury by a preponderance of the evidence that they were insane at the time the crimes were committed. Despite retention of expert forensic psychiatrists who conducted thorough evaluations of Defendants, the State does not have sufficient evidence to rebut these insanity defenses. Therefore, the State cannot meet its burden of proving Defendants are guilty beyond a reasonable doubt; rather, the evidence shows that Defendants were legally insane at the time of the alleged offenses.

Further, all three of these defendants are currently in the custody of the Department of Mental Health. In each case, the court held a hospitalization hearing pursuant to 13 V.S.A. § 4820 and issued orders of commitment directed to the Commissioner of Mental Health pursuant to 13 V.S.A. § 4822. Defendants have been in the custody of the Department of Mental Health for much of the time the cases have been pending. The Department of Mental Health has confirmed that, as far as treatment and discharge determinations, it sees no difference between a commitment order issued pursuant to § 4822 for a defendant who is found Not Guilty by Reason of Insanity after trial, and a commitment order issued pursuant to § 4822 for a defendant who is reported by a court-appointed psychiatrist to have been insane at the time of the alleged offense or incompetent to stand trial.

For these reasons, dismissal serves the interests of justice. The State does not have sufficient evidence to rebut the evidence supporting legal insanity, and to conduct criminal prosecutions in a manner that is prejudicial to the administration of justice would constitute misconduct. Further, a finding by a jury that Defendants were Not Guilty by Reason of Insanity would not trigger any additional treatment or commitment through the Department of Mental Health.

It is the State's expectation that the Department of Mental Health will maintain custody over all three of these defendants until the community can be assured that they are no longer a risk of harm to themselves or others and can also assure the community that the interests of justice have been served. The State has given the Department of Mental Health full access to its criminal files including all discovery materials in these cases to aid them in making their determinations.

These dismissals do not minimize the incredible and heroic work that the Vermont State Police and the Burlington Police Department endured in order to respond to, investigate, and arrest each of these individuals. The dismissals also do not minimize the State's belief that these crimes not only occurred, but that they were committed by the named individuals. These crimes were tragic, brutal, and horrific, and there are very real and traumatized victims and community members because of these crimes. Although our laws do not currently require the Department of Mental Health to confer with or notify the victims of these crimes nor the community as to any potential release, it is our hope that the Department of Mental Health will give the appropriate parties that courtesy, and allow them to be a part of the process in any way possible.

The full and final dismissal letters that were filed with the Court are attached to this email. A considerable amount of the information in these letters is considered confidential but included at the consent of Defense counsel in order to inform the public of these decisions in the most transparent way possible. That being said, the State recognizes that there will likely be further information the community seeks regarding specifics in these cases that are not included in these dismissal letters. Unfortunately, the State will likely be unable to provide those specifics due to the confidential nature of expert forensic reports.

The State's Attorney's Office and law enforcement agencies in our community are often expected to address all public safety issues by themselves, but it is imperative that we rely on our community partners and other state agencies to address those public safety issues relating to violent acts stemming from mental illness. When defendants are legally insane at the time of their offenses, their placement and treatment fall outside of our criminal justice system. After a thorough and exhaustive review of the evidence in their possession, and the laws at their disposal, it is the State's position that these three individuals' conduct was solely a product of major mental illnesses, and that justice for the victims of that conduct is therefore in the hands of the Department of Mental Health.

Any questions regarding the next steps for these three individuals should be directed to the Department of Mental Health, as those decisions are entirely up to them.

Best,

Sarah F George

Sarah F. George
Chittenden County State's Attorney